100th Congress, 2d Session - - - - - - - - - - House Document 100-206

UNITED STATES-PORTUGAL SOCIAL SECURITY AGREEMENT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE PORTUGUESE REPUBLIC ON SOCIAL SECURITY THAT CONSISTS OF TWO SEPARATE INSTRUMENTS: A PRINCIPAL AGREEMENT AND AN ADMINISTRATIVE ARRANGEMENT, PURSUANT TO 42 U.S.C. 433(e)(1)

JUNE 14, 1988.—Message and accompanying papers referred to the Committee on Ways and Means and ordered to be printed

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To the Congress of the United States:

Pursuant to Section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (P.L. 95–216, 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement between the United States of America and the Portuguese Republic on Social Security that consists of two separate instruments: a principal agreement and an administrative arrangement. The Agreement was signed at Lisbon on March 30, 1988.

The United States-Portugal Agreement is similar in objective to the social security agreements already in force with Belgium, Canada, the Federal Republic of Germany, Italy, Norway, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to overcome the problems of gaps in protection and of dual coverage and taxation for workers who move from one country to the other.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health and Human Services, which explains the provisions of the Agreement and provides data on the number of persons affected by the Agreement and the effect on social security financing as required by the same provision of the Social Security Act.

The Department of State and the Department of Health and Human Services join with me in commending the United States-Portugal Social Security Agreement and related documents.

RONALD REAGAN.

THE WHITE HOUSE, *June 13, 1988.*

AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA

AND THE PORTUGUESE REPUBLIC

ON SOCIAL SECURITY

The Government of the United States of America and

The Government of the Portuguese Republic,

Being desirous of regulating the relationship between their two countries in the field of Social Security, have agreed as follows:

PART I

General Provisions

Article 1

For the purpose of this Agreement:

1. "Territory" means,

   as regards the United States, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa, and

   as regards Portugal, the territory on the European continent and the archipelagos of the Azores and Madeira;

2. "National" means,

as regards the United States, a national of the United States as defined in Section 101, Immigration and Nationality Act, as amended, and

as regards Portugal, a person of Portuguese nationality;

3. "Laws" means the laws and regulations specified in Article 2, which are in force in the territory of either Contracting State or in any part of that territory;

4. "Competent Authority" means,

as regards the United States, the Secretary of Health and Human Services,

and as regards Portugal, the minister or other corresponding authority responsible for the social security schemes in all or any part of the territory of Portugal;

5. "Agency" means,

as regards the United States, the Social Security Administration, and

as regards Portugal, the body or authority entrusted with the application of the social security schemes under the laws specified in paragraph 1.b of Article 2;

6. "Period of Coverage" means a period of payment of contributions or a period of earnings from employment or self-employment, as defined or recognized as a period of coverage by the laws under which such period has been completed, or any similar period insofar as it is recognized by such laws as equivalent to a period of coverage;

7. "Benefit" means any benefit provided for in the laws of either Contracting State.

Article 2

1. For the purpose of this Agreement, the applicable laws are:

   a. As regards the United States, the laws governing the Federal Old-Age, Survivors and Disability Insurance Program:

      (i) Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections, and

      (ii) Chapter 2 and Chapter 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters;

   b. As regards Portugal,

      (i) The laws governing the general social security system of old-age, survivors, and disability insurance;

      (ii) The laws governing special systems for certain categories of workers, to the extent that these laws relate to the risks covered by the laws referred to in clause (i).

2. This Agreement shall apply also to future laws which supplement or amend the laws specified in paragraph 1 of this Article.

3. Unless otherwise provided in this Agreement, the laws referred to in paragraph 1 shall not include any treaty or other international agreement or supranational legislation on social security which may be in force between either Contracting State and a third State, or laws or regulations promulgated for their specific implementation.

4. This Agreement shall not apply to social assistance programs or to special systems for civil servants or persons treated as such.

Article 3

1. A person who is a national of a Contracting State or who has been subject to the laws of a Contracting State and who resides within the territory of the other Contracting State shall, together with his dependents, receive equal treatment with nationals of the other Contracting State in the application of the laws of the other Contracting State regarding the benefits provided for in those laws.

2. Unless otherwise provided in this Agreement, any provision of the laws of a Contracting State which restricts entitlement to or payment of cash benefits solely because a person resides outside or is absent from the territory of that Contracting State shall not be applicable to the persons who reside in the territory of the other Contracting State.

PART II

Provisions on Coverage

Article 4

1. Except as otherwise provided in this Part, a person employed within the territory of one of the Contracting States shall, with respect to that employment, be subject to the laws of only that Contracting State.

2. A person who would otherwise be compulsorily covered under the laws of both Contracting States with respect to self-employment shall be subject only to the laws of the Contracting State of which he is a resident.

Article 5

1. (a) Where a person who is covered under the laws of a Contracting State with respect to work performed for an employer having a place of business in the territory of that Contracting State is sent by that employer to work

in the territory of the other Contracting State, the person shall be subject to the laws of only the first Contracting State as if he were employed in the territory of the first Contracting State, provided that the period of employment in the territory of the other Contracting State is not expected to exceed five years. If the period of employment is prolonged due to unforeseen circumstances for more than five years, the laws of the first Contracting State shall continue to apply for a new period of not more than one year, provided that the Competent Authority of the other Contracting State consents. Any extension must be requested before the termination of the initial period of five years.

(b) Subparagraph (a) shall apply where a person who has been sent by his employer from the territory of a Contracting State to the territory of a third State is subsequently sent by that employer from the territory of the third State to the territory of the other Contracting State.

2. Where the same activity is considered to be self-employment under the laws of one Contracting State and employment under the laws of the other Contracting State, that activity shall be treated according to the provisions of this Part concerning self-employment if the person is a resident of the first Contracting State and according to the provisions of this Part concerning employment in any other case.

3. A person who would otherwise be compulsorily covered under the laws of both Contracting States with respect to employment as an officer or member of a crew on a ship or aircraft shall be subject only to the laws of the Contracting State of which he is a resident.

Article 6

1. This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or of the Vienna Convention on Consular Relations of April 24, 1963.

2. Nationals of one of the Contracting States who are employed by the Government of that Contracting State in the territory of the other Contracting State but who are not exempt from the laws of the other Contracting State by virtue of the Conventions mentioned in paragraph 1 shall be subject to the laws of only the first Contracting State. For the purposes of this paragraph, employment by the Government of a Contracting State includes employment by an instrumentality thereof.

Article 7

The Competent Authorities of the two Contracting States may agree to grant an exception to the provisions of Articles 4, 5, and 6 with respect to any person or category of persons, provided that the affected person or persons shall be subject to the laws of one of the Contracting States.

Article 8

1. A national of a Contracting State residing in the territory of the other Contracting State shall be entitled to register for any voluntary insurance provided under the laws of the other Contracting State on the same basis as nationals of the other Contracting State.

2. A person who has been subject to the laws of a Contracting State shall be entitled to register for any optional continued insurance provided under the laws of that Contracting State on the same basis as a national of that Contracting State, and, where necessary, periods of coverage completed under the laws of the other Contracting State shall be taken into account, provided that the person resides in the territory of the first Contracting State.

PART III

Provisions on Benefits

Article 9

The following provisions shall apply to the United States:

1. Where a person has completed at least six quarters of coverage under United States laws, but does not have sufficient quarters of coverage to satisfy the requirements for entitlement to benefits under United States laws, the agency of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of Portugal and which do not coincide with periods of coverage already credited under United States laws.

2. In determining eligibility for benefits under paragraph 1 of this Article, the agency of the United States shall credit one quarter of coverage for every three months of coverage certified by the agency of Portugal; however, no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under United States laws. The total number of quarters of coverage to be credited for a year shall not exceed four.

3. Where entitlement to a benefit under United States laws is established according to the provisions of paragraph 1, the agency of the United States shall compute a pro rata Primary Insurance Amount in accordance with United States laws based on (a) the person's average earnings credited exclusively under United States laws and (b) the ratio of the duration of the person's periods of coverage completed under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws. Benefits payable under United States laws shall be based on the pro rata Primary Insurance Amount.

4. Entitlement to a benefit from the United States which results from paragraph 1 shall terminate with the acquisition of sufficient periods of coverage under United States laws to establish entitlement to an equal or higher benefit without the need to invoke the provisions of paragraph 1.

Article 10

The following provisions shall apply to Portugal:

1. Where a person has completed at least one year of coverage under Portuguese law, but does not have sufficient periods of coverage to satisfy the requirements for entitlement to benefits under Portuguese law, the agency of Portugal shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of the United States and which do not coincide with periods of coverage already credited under Portuguese law.

2. Where Portuguese laws establish as a condition for receiving certain benefits that the periods of coverage be completed in a given profession or occupation which is subject to a special pension system, in determining eligibility for such benefits only the periods completed under United States laws in the same profession or occupation shall be totalized with periods of coverage under such special system. If the total of such periods of coverage does not result in entitlement under the special system, such periods shall be used to determine eligibility for benefits of the general system applicable under Portuguese laws to employed persons.

3. In determining eligibility for benefits under paragraph 1 of this Article, the agency of Portugal shall credit three months of coverage for every quarter of coverage certified by the agency of the United States.

4. Where a person satisfies the conditions required by Portuguese law for entitlement to benefits solely by virtue of the provisions of paragraph 1 of this Article, the agency of Portugal shall calculate the amount of the benefits to which the person is entitled on the basis of (a) the periods of coverage completed exclusively under Portuguese law and (b) the person's average earnings credited exclusively under Portuguese law.

5. If a person who resides in the territory of Portugal becomes entitled to benefits under paragraph 1 as well as benefits under United States laws, and the amount of the combined benefits is less than the benefit amount which would be payable based on the minimum basic benefit amount payable under Portuguese laws, the agency of Portugal shall pay, in addition to the pro rata amount calculated according to paragraph 4, a supplement equal to the difference between the amount of such combined benefits and the amount of benefits which would be payable to the person based on such minimum basic benefit amount.

6. Entitlement to a benefit from Portugal which results from paragraph 1 shall terminate with the acquisition of sufficient periods of coverage under Portuguese law to establish entitlement to an equal or higher benefit without the need to invoke the provisions of paragraph 1.

Article 11

Periods of coverage of a Contracting State which have been completed under a Social Security pension system to which this Agreement does not apply, but which are taken into account by a system governed by the laws of that Contracting State referred to in Article 2 shall be considered as periods of coverage for the purpose of totalization by the agency of the other Contracting State.

PART IV

Miscellaneous Provisions

Article 12

The Competent Authorities of the two Contracting States shall:

(a) Make all necessary administrative arrangements for the application of this Agreement;

(b) Communicate to each other information concerning the measures taken for the application of this Agreement; and

(c) Communicate to each other, as soon as possible, information concerning all changes in their respective laws which may affect the application of this Agreement.

Article 13

1. The Competent Authorities and the agencies of the Contracting States, within the scope of their respective authority, shall assist each other in implementing this Agreement.

2. For the purpose of facilitating the implementation of this Agreement, liaison agencies shall be designated in an administrative arrangement.

Article 14

Any application, appeal or other document which according to the laws of a Contracting State must be submitted within a specified period to an agency of that Contracting State, but which is instead submitted within the same period to the agency of the other Contracting State shall be considered to have been submitted on time. In such case, the agency with which the application, appeal or document has been filed shall indicate the date of receipt on the document and transmit it without delay to the appropriate agency of the other Contracting State either directly or by way of the liaison agency.

Article 15

1. Where the laws of a Contracting State provide that any document which is submitted to a Competent Authority or an agency of that Contracting State shall be exempted, wholly or partly, from fees or charges, including consular and administrative fees, the exemption shall also apply to corresponding documents which are submitted to a Competent Authority or an agency of the other Contracting State in the application of this Agreement.

2. Documents and certificates which are presented for purposes of this Agreement shall be exempt from requirements for authentication by diplomatic or consular authorities.

Article 16

1. A written application for benefits filed with an agency of one Contracting State shall protect the rights of the claimants under the laws of the other Contracting State if the applicant requests that it be considered an application under the laws of the other Contracting State.

2. If an applicant has filed a written application for benefits with the agency of one Contracting State and has not specifically restricted the application to benefits under the laws of that State, the application shall also protect the rights of the claimants under the laws of the other Contracting State if the applicant provides information at the time of filing indicating that the person on whose record benefits are claimed has completed periods of coverage under the laws of the other Contracting State.

3. The provisions of this Agreement shall apply only to an application for benefits which is filed on or after the date this Agreement enters into force.

Article 17

The Competent Authorities and agencies of the Contracting States may correspond directly with each other and with any person wherever the person may reside whenever it is necessary for the administration of this Agreement. The correspondence may be in the English or Portuguese language.

Article 18

1. Payments under this Agreement may be made in the currency of the Contracting State making the payments.

2. In case provisions designed to restrict the exchange or exportation of currencies are introduced by either Contracting State, the Governments of both Contracting States shall immediately adopt the measures necessary to insure the transfer of sums owed by either Contracting State under this Agreement.

Article 19

This Agreement may be amended in the future by supplementary agreements, which from their entry into force shall be considered an integral part of this Agreement. Such supplementary agreements may be given retroactive effect if they so specify.

Article 20

1. Disagreements between the two Contracting States regarding the interpretation or application of this Agreement shall, as far as possible, be settled by the Competent Authorities.

2. If such a disagreement cannot be resolved within a period of six months, either Contracting State may submit the matter to binding arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Contracting States.

PART V

Transitional and Final Provisions

Article 21

1. Upon entry into force of this Agreement, the Notes exchanged between the Ambassador of the United States of America and the Minister of Foreign Affairs of Portugal on May 1, 1968, shall cease to have effect; provided, however, that no person shall suffer any loss of rights to benefits outside the territory of Portugal which he had under those Notes or would have had if those Notes had remained in effect.

2. In the application of this Agreement, consideration shall be given to periods of coverage under the laws of either Contracting State which occurred prior to the entry into force of this Agreement, in order to determine the right to benefits under this Agreement; except that neither State shall take into account periods which occurred prior to the earliest date for which periods may be credited as periods of coverage under its laws.

3. This Agreement shall also apply to events relevant to rights under the laws of either Contracting State which occurred prior to its entry into force.

4. This Agreement shall not establish any claim to payment of a benefit for any period before its entry into force or a lump-sum death benefit if the person died before its entry into force.

5. Determinations made before the entry into force of this Agreement shall not affect rights arising under it.

6. The application of this Agreement shall not result in any reduction in the amount of benefits to which entitlement was established prior to its entry into force.

7. In applying Article 5, paragraph 1, in the case of persons who were sent to the territory of a Contracting State prior to the date of entry into force of this Agreement, the period of employment referred to in that paragraph shall be considered to begin on that date.

Article 22

1. This Agreement shall remain in force and effect until the expiration of one calendar year following the year in which written notice of its termination is given by one of the Contracting States to the other Contracting State.

2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained; the Contracting States shall make arrangements dealing with rights in the process of being acquired.

Article 23

Both Contracting States shall notify each other in writing of the completion of their respective statutory and constitutional procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the third month following the date of the last notification.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement.

DONE at Lisbon on March 30, 1988, in duplicate, in the English and Portuguese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE PORTUGUESE REPUBLIC:

ADMINISTRATIVE ARRANGEMENT

FOR THE IMPLEMENTATION OF THE AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA

AND THE PORTUGUESE REPUBLIC

ON SOCIAL SECURITY

The Government of the United States of America and

The Government of the Portuguese Republic,

In conformity with Article 12, paragraph (a), of the Agreement between the United States of America and the Portuguese Republic on Social Security of this date, hereinafter referred to as the "Agreement," have agreed as follows:

Chapter I

General Provisions

Article 1

The terms used in this Administrative Arrangement shall have the same meaning as in the Agreement.

Article 2

1. The liaison agencies referred to in Article 13, paragraph 2, of the Agreement shall be:

   (a) for the United States, the Social Security Administration,

   (b) for Portugal, the Department of International Relations and Social Security Conventions (Departamento de Relacoes Internacionais e Convencoes de Seguranca Social).

2. The liaison agencies designated in paragraph 1 shall agree upon the joint procedures and forms necessary for the implementation of the Agreement and this Administrative Arrangement.

Chapter II

Provisions on Coverage

Article 3

1. Where the laws of a Contracting State are applicable in accordance with Part II of the Agreement, the agency of that Contracting State, upon request of the employer or self-employed person, shall issue a certificate stating that the employee or self-employed person is subject to those laws. This certificate shall be proof that the named worker is exempt from the laws on compulsory coverage of the other Contracting State.

2. The certificate referred to in paragraph 1 shall be issued

   (a) In the United States:

   by the Social Security Administration;

   (b) In Portugal:

   on the European continent by the Regional Social Security Center (Centro Regional de Seguranca Social) where the worker concerned is registered,

   in the Autonomous Region of Madeira by the Regional Social Security Directorate (Direccao Regional de Seguranca Social), Funchal,

   in the Autonomous Region of the Azores by the Regional Social Security Directorate (Direccao Regional de Seguranca Social), Angra do Heroismo.

3. The agency of a Contracting State which issues a certificate referred to in paragraph 1 shall furnish a copy of the certificate to the liaison agency of the other Contracting State as needed by the latter agency.

Chapter III

Provisions on Benefits

Article 4

1. The agency of the Contracting State with which an application for benefits is first filed in accordance with Article 16 of the Agreement shall inform the liaison agency of the other Contracting State of this fact without delay and provide such evidence and other information as may be required to complete action on the claim.

2. The liaison agency of a Contracting State which receives an application that was first filed with an agency of the other Contracting State shall without delay provide the liaison agency of that Contracting State with such evidence and other available information as may be required for it to complete action on the claim.

3. The agency of the Contracting State with which an application for benefits has been filed shall verify the information pertaining to the applicant and his family members. The types of information to be verified shall be agreed upon by the liaison agencies.

Chapter IV

Miscellaneous Provisions

Article 5

In accordance with measures to be agreed upon by the Contracting States pursuant to Article 2 of this Administrative Arrangement, the liaison agency of one Contracting State shall, upon request of an agency of the other Contracting State, furnish available information relating to the claim of any specified individual for the purpose of administering the Agreement.

Article 6

Copies of documents which are certified as true and exact copies by the agency of one Contracting State shall be accepted as true and exact copies by the agency of the other Contracting State, without further certification. When applying its laws, the agency of each Contracting State shall be the final judge of the probative value of the evidence submitted to it from whatever source.

Article 7

The liaison agencies of the two Contracting States shall exchange statistics on the number of certificates issued under Article 3 of this Administrative Arrangement and on the payments made to beneficiaries under the Agreement. These statistics shall be furnished annually in a form to be agreed upon.

Article 8

1. Where administrative assistance is requested under Article 13 of the Agreement, expenses other than regular personnel and operating costs of the agencies providing the assistance shall be reimbursed.

2. Upon request, the agency of either Contracting State shall furnish without cost to the agency of the other Contracting State any medical information and documentation in its possession relevant to the disability of the claimant or beneficiary.

3. Where the agency of a Contracting State requires that a person in the territory of the other Contracting State who is receiving or applying for benefits under the Agreement submit to a medical examination, such examination, if requested by that agency, shall be arranged by the agency of the other Contracting State in accordance with the rules of the agency making the arrangements and at the expense of the agency which requests the examination.

4. The liaison agency of one Contracting State shall reimburse amounts owed under paragraph 1 or 3 of this Article upon presentation of a detailed statement of expenses by the liaison agency of the other Contracting State.

Article 9

Unless otherwise required by the national statutes of a Contracting State, information about an individual which is transmitted in accordance with the Agreement to that Contracting State by the other Contracting State shall be used exclusively for purposes of implementing the Agreement. Such information received by a Contracting State shall be governed by the national statutes of that Contracting State for the protection of privacy and confidentiality of personal data.

Article 10

This Administrative Arrangement shall enter into force on the date of entry into force of the Agreement and shall have the same period of validity.

DONE at Lisbon on March 30 1988, in duplicate, in the English and Portuguese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE PORTUGUESE REPUBLIC:

REPORT TO CONGRESS
TO ACCOMPANY THE SOCIAL SECURITY AGREEMENT
BETWEEN THE UNITED STATES AND PORTUGAL

I. INTRODUCTION

The social security agreement between the United States and Portugal is intended to provide limited coordination of the old-age, survivors, and disability insurance (OASDI) programs of the two countries. The agreement is similar in content and objective to agreements already in force between the United States and Belgium, Canada, the Federal Republic of Germany, Italy, Norway, Spain, Sweden, Switzerland and the United Kingdom.

The U.S.-Portuguese agreement consists of two separate instruments: (1) a principal agreement setting forth the basic rules for coordinating the two countries' social security systems; and (2) an administrative arrangement establishing policies and procedures to implement the principal agreement. These two documents, which were signed by representatives of the U.S. and Portuguese Governments on March 30, 1988, are now being submitted to Congress for review in accordance with section 233(e) of the Social Security Act.

The U.S.-Portuguese agreement would eliminate dual social security coverage and taxation, the situation that now exists when a person from one country works in the other country and is covered under and required (along with the person's employer) to pay contributions to the social security systems of both countries for the same work. In addition to eliminating dual coverage, the agreement would help prevent situations where workers suffer a loss of benefit rights because they have divided their careers between the two countries.

Accompanying this report are paragraph-by-paragraph explanations of the provisions of the principal agreement (Annex A) and related administrative arrangement (Annex B). A report required by section 233(e)(1) of the Social Security Act on the effect of the agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the agreement is also included (Annex C).

II. STATUTORY REQUIREMENTS

Section 233(c)(1) of the Social Security Act requires that international agreements concluded pursuant to that section provide for the elimination of dual coverage of the same work under the social security systems of the United States and the other country party to the agreement, and for combining credits earned by a worker under the two systems for benefit eligibility purposes. In addition, the law stipulates that when eligibility for U.S. Social Security benefits is established on the basis of combined credits, the amount of the benefit payable must be based on the proportion of the worker's periods of coverage completed under title II of the Social Security Act. The U.S.-Portuguese agreement includes these required provisions.

III. COVERAGE PROVISIONS

In conformity with section 233(c)(1)(B) of the Social Security Act, Part II of the principal agreement sets forth rules designed to eliminate dual coverage and taxation of the same work under the U.S. and Portuguese social security systems.

A. Rules Governing Employees

The rules which apply to employed persons provide that dual coverage under the laws of the United States and Portugal would be eliminated generally by maintaining an employee's coverage under the system of the country where the work is performed and exempting the employee from compulsory coverage under the system of the other country.

Special rules would apply, however, for employees who are temporarily transferred by their employer in one country to work in the other country for a period of 5 years or less. In these cases, an employee who was covered in one country before his transfer would continue to be covered under that country's system and would be exempt from coverage in the other country. Thus, a person working in the United States who is temporarily transferred by his employer to Portugal would only be covered under and pay contributions to the U.S. program, and he and his employer would be relieved of the additional burden of paying social security contributions to the Portuguese program.

Other rules set forth in this Part would apply to persons employed by the Governments of the two countries and to persons employed in international air and ship transportation.

B. Rules Governing Self-employed Persons

Part II also contains rules applicable to persons whose earnings from self-employment would be subject to compulsory coverage and contributions under the laws of both countries. Under these rules, a self-employed resident of Portugal whose earnings would otherwise be dually covered will be covered only under the laws of Portugal. A dually covered U.S. resident would be covered only under U.S. laws.

IV. BENEFIT PROVISIONS

Part III of the principal agreement establishes the basic rules for determining entitlement to and the amount of U.S. and Portuguese benefits for persons who have worked in both countries. These benefit provisions are included pursuant to sections 233(c)(1)(A) and (C) of the Social Security Act.

A. Provisions Applicable to the United States

1. Totalization of Periods of Coverage

Under the rules which apply to the United States, if a worker has credit for at least 6 quarters of coverage under the U.S. Social Security program but not enough credits to qualify for a U.S. benefit, the worker's coverage credits from both countries could be totalized (i.e., combined) to permit him or her to qualify for a partial U.S. benefit. Since periods of coverage under the Portuguese social security program are measured in terms of months, the United States would credit one quarter of coverage for every three months of Portuguese coverage in a calendar year. The United States would not, however, credit months of coverage under Portuguese law if they coincide with quarters of coverage already credited under the U.S. system.

2. Computation of U.S. Totalization Benefit Amounts

The amount of a U.S. benefit for which a person may qualify based on totalized periods of coverage depends on both the duration of the worker's coverage under U.S. Social Security and the level of his earnings. A detailed description of the totalization benefit computation procedure is contained in regulations of the Department of Health and Human Services (20 CFR 404.1918). The first step in the procedure is to compute a theoretical benefit amount as though the worker had worked a full coverage lifetime (i.e., a full career) under U.S. Social Security at the same earnings level as during his actual periods of U.S. covered work. The theoretical benefit is then prorated to reflect the proportion of a coverage lifetime the worker completed under the U.S. program. A coverage lifetime is defined in the regulations as the number of the worker's benefit computation years, i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.

B. Provisions Applicable to Portugal

1. Portuguese Benefits

Portugal provides old-age, survivors, and permanent disability benefits through several programs. A general social security system covers the majority of workers in the private sector, and several special systems cover other workers in specific occupational categories. In order to qualify for Portuguese benefits, a worker must meet applicable eligibility standards which include minimum length-of-coverage requirements that are specified for each type of benefit. Benefit amounts are based on the length of time the worker contributed to the Portuguese system and his or her average covered earnings during the 5 years of highest earnings out of the last 10 years.

2. Totalization of Periods of Coverage

The totalization provisions of the agreement apply to the Portuguese social security laws which govern the payment of retirement,

survivors and long-term disability benefits under the general and special social security systems.

Under the agreement, if a worker has at least one year of Portuguese coverage, Portugal would add U.S. quarters of coverage to periods of Portuguese coverage in order to determine whether the worker meets the applicable minimum coverage requirements for benefit eligibility under Portuguese law. Portugal will not give credit for U.S. coverage which coincides with periods that are already credited under Portuguese law.

Where eligibility is established based on combined U.S. and Portuguese credits, the amount of the benefit payable by Portugal will be computed in accordance with Portuguese law taking into account the periods of coverage and earnings credited exclusively under Portuguese law.

C. Benefit Portability

Section 233(c)(2) of the Social Security Act permits agreements to contain provisions suspending the application of the alien nonpayment provisions of the Social Security Act (section 202(t)) for persons residing in a foreign country with which the United States has an agreement in force.

Portuguese nationals outside the United States, including those residing in Portugal, are already exempt from the nonpayment provisions of section 202(t)(1) in accordance with section 202(t)(2). However, citizens of certain other countries who reside in Portugal may not be exempt from these nonpayment provisions of the Social Security Act. The agreement, therefore, would provide an exemption from the nonpayment provisions of section 202(t)(1) for insured persons and their dependents or survivors, regardless of their citizenship, if they reside in Portugal.

Under section 202(t)(11), benefits generally may not be paid to nonresident aliens who first become eligible for title II dependent or survivor benefits after 1984, unless they satisfy certain U.S. residency requirements, or they are citizens or

residents of a country with which the United States has an agreement in force pursuant to section 233 of the Social Security Act. Once the U.S.-Portuguese social security agreement enters into force, citizens or residents of Portugal will no longer be subject to this nonpayment provision.

The agreement would also guarantee that U.S. residents who have been covered under the Portuguese social security program, as well as their family members and survivors, could qualify for and receive Portuguese benefits without regard to their nationality.

V. OTHER PROVISIONS

Section 233(c)(4) of the Social Security Act authorizes agreements to contain other provisions not inconsistent with title II of the Act which are appropriate to carry out the purposes of the agreements. In accordance with this provision, the principal agreement and administrative arrangement contain a number of articles designed to permit the United States and Portugal to render free or reimbursable assistance to the other country in implementing the agreement.

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AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA
AND
THE PORTUGUESE REPUBLIC
ON SOCIAL SECURITY

The Government of the United States of America and

The Government of the Portuguese Republic,

Being desirous of regulating the relationship between their two countries in the field of Social Security, have agreed as follows:

Both the United States and Portugal have concluded this Agreement under specific statutory authority. The Agreement is being concluded by the United States under the authority of section 233 of the Social Security Act and by Portugal under authority of Decree Law 349 of July 26, 1983. Upon entry into force, the Agreement will have the effect of law in both countries and will be binding on both countries.

PART I

General Provisions

Article 1

For the purpose of this Agreement:

Article 1 defines the key terms used in the Agreement.

1."Territory" means,

as regards the United States, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa, and

The definition of United States territory is identical to the definition of the United States in section 210(i) of the Social Security Act.

as regards Portugal, the territory on the European continent and the archipelagos of the Azores and Madeira;

Portuguese territory includes the Azores and Madeira Islands, as well as Portuguese territory on the European Continent.

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2. "National" means,	
as regards the United States, a national of the United States as defined in Section 101, Immigration and Nationality Act, as amended, and	Under section 101 of the Immigration and Nationality Act, "the term national of the United States means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States." Those in category (B) include natives of American Samoa.
as regards Portugal, a person of Portuguese nationality;	A Portuguese national means any person who is accorded nationality by Portugal, including, but not limited to, a person who carries a valid Portuguese passport or other valid identity document designating the person as a Portuguese national.
3. "Laws" means the laws and regulations specified in Article 2, which are in force in the territory of either Contracting State or in any part of that territory;	The term "laws," as used in the Agreement, refers to the social security laws and regulations of each country as specified in Article 2.
4. "Competent Authority" means,	"Competent Authority," as used throughout this Agreement, refers to the Government official in each country charged with the ultimate responsibility for administering the social security program, including the provisions of the Agreement.
as regards the United States, the Secretary of Health and Human Services,	
and as regards Portugal, the minister or other corresponding authority responsible for the social security schemes in all or any part of the territory of Portugal;	
5. "Agency" means,	"Agency," as used in this Agreement, refers to the administrative body in each country responsible for taking and processing claims and making coverage determinations under each country's social security laws. The Social Security Administration (SSA) is the agency for the United States. However, the U.S. Internal Revenue Service's responsibility for determining Social Security tax liability in light of SSA coverage determinations under the Agreement is not affected.
as regards the United States, the Social Security Administration, and	

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as regards Portugal, the body or authority entrusted with the application of the social security schemes under the laws specified in paragraph 1.b of Article 2;	In Portugal, a number of separate offices are responsible for administering the benefit and coverage provisions of Portuguese social security laws. Any of these offices may be an "agency" for purposes of the Agreement in a particular case.
6. "Period of Coverage" means a period of payment of contributions or a period of earnings from employment or self-employment, as defined or recognized as a period of coverage by the laws under which such period has been completed, or any similar period insofar as it is recognized by such laws as equivalent to a period of coverage;	The term "period of coverage" means any period which is credited under the laws of either country for purposes of determining benefit eligibility, including periods of covered employment or self-employment.
7. "Benefit" means any benefit provided for in the laws of either Contracting State.	The term "benefit" refers to old-age, survivors, and disability benefits provided under the social security laws of either country. The term also includes the lump-sum death payment under section 202(i) of the Social Security Act of the United States, but excludes special age-72 payments provided for certain uninsured persons under section 228 of the Social Security Act.
Article 2	
1. For the purpose of this Agreement, the applicable laws are:	Article 2.1 specifies the laws to which the Agreement applies.
a. As regards the United States, the laws governing the Federal Old-Age, Survivors and Disability Insurance Program:	For the United States, the Agreement applies to title II of the U.S. Social Security Act and the corresponding tax laws (the Federal Insurance Contributions Act and the Self-Employment Contributions Act of 1954) and any regulations pertaining to those laws. However, the Agreement does not apply to Medicare provisions (sections 226 and 226A of the Social Security Act) or provisions for special benefits for uninsured persons aged 72 and over under section 228 of the Social Security Act. Persons to whom the Agreement applies who qualify independently for Medicare hospital insurance or age-72 payments will be entitled to receive such benefits.
(i) Title II of the Social Security Act and regulations pertaining thereto, except sections 226, 226A and 228 of that title and regulations pertaining to those sections, and	
(ii) Chapter 2 and Chapter 21 of the Internal Revenue Code of 1986 and regulations pertaining to those chapters;	

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b. As regards Portugal, (i) The laws governing the general social security system of old-age, survivors, and disability insurance; (ii) The laws governing special systems for certain categories of workers, to the extent that these laws relate to the risks covered by the laws referred to in clause (i).	The general social security program in Portugal covers over 70 percent of the population. Special programs cover certain categories of workers, including self-employed persons, civil servants, bank employees, clergymen, agricultural workers, and domestic employees. These special programs are in the process of being consolidated under the general system in accordance with a statutory mandate. In addition to old-age, survivors and long-term disability benefits, the Portuguese social security system currently provides benefits for sickness (temporary disability), maternity, occupational injury and disease, unemployment, and family allowances. The Agreement applies to both the general and special systems, except for the system covering civil servants.
2. This Agreement shall apply also to future laws which supplement or amend the laws specified in paragraph 1 of this Article.	The Agreement will automatically apply to any future laws that modify the laws set forth in paragraph 1.
3. Unless otherwise provided in this Agreement, the laws referred to in paragraph 1 shall not include any treaty or other international agreement or supranational legislation on social security which may be in force between either Contracting State and a third State, or laws or regulations promulgated for their specific implementation.	The laws to which the Agreement applies do not include treaties and other international agreements (or laws to implement them)--for example, either country's bilateral social security agreements with third countries or multilateral agreements or supranational legislation to which either country is a party, such as the social security regulations of the European Communities. The purpose of this provision is to ensure that in cases where a person has periods of coverage in the United States and Portugal and periods of coverage in a third country with which the United States or Portugal has a social security agreement, periods from all three countries may not be combined to meet U.S. or Portuguese benefit eligibility requirements.
4. This Agreement shall not apply to social assistance programs or to special systems for civil servants or persons treated as such.	Article 2.4 excludes from the scope of the Agreement means-tested welfare programs and retirement schemes for civil servants.

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Article 3

1. A person who is a national of a Contracting State or who has been subject to the laws of a Contracting State and who resides within the territory of the other Contracting State shall, together with his dependents, receive equal treatment with nationals of the other Contracting State in the application of the laws of the other Contracting State regarding the benefits provided for in those laws.

Under Article 3.1, if a person is a U.S. or Portuguese national, or has been subject to the social security laws of the United States or Portugal, and the person resides in the other country, the country in which the person resides will accord him or her the same treatment regarding social security benefit rights as it accords its own nationals. This provision is not intended to affect the coverage provisions of either country's laws, since these are dealt with specifically in Part II of the Agreement.

2. Unless otherwise provided in this Agreement, any provision of the laws of a Contracting State which restricts entitlement to or payment of cash benefits solely because a person resides outside or is absent from the territory of that Contracting State shall not be applicable to the persons who reside in the territory of the other Contracting State.

Article 3.2 provides that where the laws of either country require that a person be resident or present in that country in order to qualify for or receive social security benefits, the person may also qualify for or receive those benefits during periods of residence in the other country. See Article 21.1 with respect to the payment of benefits to U.S. and Portuguese nationals located in third countries.

Since U.S. law already permits payment of benefits to U.S. and Portuguese nationals who reside in either country, the primary effect of Article 3.2 on U.S. law is to permit the United States to pay certain third country nationals who would otherwise be subject to the alien nonpayment provisions of section 202(t) of the Social Security Act during periods of residence in Portugal.

In addition to the portability guarantee provided for Portuguese residents in Article 3.2, the entry into force of the agreement will also liberalize a restriction on exportation of U.S. dependents and survivors benefits that now applies to Portuguese citizens and residents. Under U.S. law, social security dependents and survivors benefits may not be paid to aliens who first become eligible for benefits after 1984 and who are outside the United States for more than 6 months unless

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they satisfy certain U.S. residency requirements or they are citizens or residents of a country with which the United States has an international social security agreement in force. Once this Agreement enters into force, citizens and residents of Portugal will no longer be subject to this nonpayment provision.

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PART II

Provisions on Coverage

Article 4

1. Except as otherwise provided in this Part, a person employed within the territory of one of the Contracting States shall, with respect to that employment, be subject to the laws of only that Contracting State.

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Part II is intended to eliminate dual coverage, i.e., situations where a worker is covered under the laws of both countries with respect to the same services. In so doing, the existing coverage provisions of the laws of both countries are preserved to the greatest extent possible. The provisions in this Part are intended to eliminate dual coverage by continuing the worker's social security coverage and taxation under the system of the country to whose economy he has the more direct connection and exempting him from coverage and taxation under the other country's system.

Article 4 establishes general rules for eliminating dual social security coverage and contributions for employment and self-employment. Article 5.1 contains an exception to these general rules which would apply in the case of employees sent by an employer in one country to work temporarily in the other country. Article 5.2 provides a special rule that applies to work activity that is considered employment by one country and self-employment by the other country. Article 5.3 regulates the coverage of persons engaged in international air or ship transportation. Article 6 establishes rules applicable to persons employed in U.S. or Portuguese Government service.

Article 4.1 establishes a territoriality rule which stipulates that, in general, a person's employment in a country will be compulsorily covered by only that country. Thus, a person working in employment covered under the laws of both countries will remain covered under the system of the country where the employment takes place and will be exempt from coverage under the system of the other country.

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2. A person who would otherwise be compulsorily covered under the laws of both Contracting States with respect to self-employment shall be subject only to the laws of the Contracting State of which he is a resident.	Article 4.2 applies to persons whose earnings from self-employment would be subject to compulsory coverage under the laws of both countries. A self-employed Portuguese resident whose earnings would otherwise be covered by both Portugal and the United States will be covered only under the laws of Portugal. A dually covered U.S. resident will be covered only under U.S. laws. This provision will primarily affect self-employed U.S. citizens who reside in Portugal. In the absence of an agreement, such persons would be covered under Portuguese law because they reside in Portugal and would also be covered under U.S. law because they are U.S. citizens.
Article 5	
1. (a) Where a person who is covered under the laws of a Contracting State with respect to work performed for an employer having a place of business in the territory of that Contracting State is sent by that employer to work in the territory of the other Contracting State, the person shall be subject to the laws of only the first Contracting State as if he were employed in the territory of the first Contracting State, provided that the period of employment in the territory of the other Contracting State is not expected to exceed five years. If the period of employment is prolonged due to unforeseen circumstances for more than five years, the laws of the first Contracting State shall continue to apply for a new period of not more than one year, provided that the Competent Authority of the other Contracting State consents. Any extension must be requested before the termination of the initial period of five years.	Under Article 5.1(a), an employee working for an employer located in the United States or Portugal who is temporarily transferred to work in the other country for the same employer (or, under certain conditions, a foreign affiliate of that employer) will continue to be covered by the social security system of the country from which the employee has been transferred. Ordinarily, this rule will apply only if the transfer is expected to last 5 years or less. However, provision has been made for extending the 5-year period of exemption for one additional year, if the Competent Authorities agree to the extension. For purposes of measuring the length of a transfer in the case of workers who were sent from one country to the other before the Agreement entered into force, Article 21.7 provides that any period of work before the Agreement's entry into force will be disregarded.
(b) Subparagraph (a) shall apply where a person who has been sent by his employer from the territory of a Contracting State to the territory of a third State is subsequently sent by that employer from the territory of the third State to the territory of the other Contracting State.	Under Article 5.1(b), the provisions of Article 5.1(a) will apply even if an employee has not been sent directly from one country to the other but is first assigned to work in a third country.

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2. Where the same activity is considered to be self-employment under the laws of one Contracting State and employment under the laws of the other Contracting State, that activity shall be treated according to the provisions of this Part concerning self-employment if the person is a resident of the first Contracting State and according to the provisions of this Part concerning employment in any other case.	Article 5.2 eliminates dual coverage in cases where a person's work activity is considered self-employment under the laws of one country and employment under the laws of the other and is compulsorily covered by both countries. Under paragraph 5.2, a person who is a resident of the country which considers him to be self-employed will be subject to the residence rule that applies to self-employment under Article 4.2 and the person will therefore be covered by that country. A person who is not a resident of the country which considers him to be self-employed will be subject to the provisions of Articles 4 and 5 regarding employment. In this case, the person will be subject to the laws of the country where the work is performed or, if the conditions of Article 5.1 regarding temporary transfers are met, the country from which the person was sent.
3. A person who would otherwise be compulsorily covered under the laws of both Contracting States with respect to employment as an officer or member of a crew on a ship or aircraft shall be subject only to the laws of the Contracting State of which he is a resident.	Under Article 5.3, a person employed on a ship or aircraft who would otherwise be covered under the laws of both the United States and Portugal will be covered only under the laws of the country in which he or she is resident.
Article 6	
1. This Agreement shall not affect the provisions of the Vienna Convention on Diplomatic Relations of April 18, 1961, or of the Vienna Convention on Consular Relations of April 24, 1963.	Article 6 provides coverage rules applicable to employees of the U.S. and Portuguese Governments. Article 6.1 is intended to make clear that, in general, the categories of persons mentioned in the Vienna Conventions on diplomatic and consular relations will not be affected by the coverage provisions of the Agreement. The Conventions, to which both the United States and Portugal are parties, apply to members of the staff of a diplomatic or consular mission, including the diplomatic, consular, administrative and technical staffs; dependents of members of those staffs; the domestic service staff of the mission; and private servants employed by members of such missions.

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2. Nationals of one of the Contracting States who are employed by the Government of that Contracting State in the territory of the other Contracting State but who are not exempt from the laws of the other Contracting State by virtue of the Conventions mentioned in paragraph 1 shall be subject to the laws of only the first Contracting State. For the purposes of this paragraph, employment by the Government of a Contracting State includes employment by an instrumentality thereof.

Article 7

The Competent Authorities of the two Contracting States may agree to grant an exception to the provisions of Articles 4, 5, and 6 with respect to any person or category of persons, provided that the affected person or persons shall be subject to the laws of one of the Contracting States.

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In general, the Vienna Conventions exempt such persons from social security coverage and contributions under the laws of the host country unless specific arrangements have been made to waive their immunity from taxation. Persons whose immunity has been waived would be subject to the laws of the host country, including the coverage provisions of this Agreement.

Article 6.2 provides that if a U.S. or Portuguese national is employed by his Government in the other country but is not exempt from host country coverage by virtue of the Vienna Conventions (for example, because the person is not employed in a diplomatic or consular mission), the person will be subject only to the laws of his own country.

Under Article 7, either country may grant an exception to the coverage rules of the Agreement provided that the other country concurs. Such an exception may be granted on behalf of an individual worker or on behalf of all workers employed under similar circumstances, e.g., in the same profession or for the same employer. This provision is designed to permit the Competent Authorities to correct anomolous situations that arise to the disadvantage of workers or to eliminate dual coverage in unforeseen circumstances.

PRINCIPAL AGREEMENT

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Article 8

1. A national of a Contracting State residing in the territory of the other Contracting State shall be entitled to register for any voluntary insurance provided under the laws of the other Contracting State on the same basis as nationals of the other Contracting State.

Article 8 will improve the rights of U.S. citizens under provisions of Portuguese social security law that allow persons who are not covered compulsorily to pay contributions on a voluntary basis and thereby acquire social security credit. Since U.S. law does not have such provisions, Article 8 will have no direct effect on the U.S. social security program.

Portuguese law provides for two types of voluntary coverage. Under the first type, which is dealt with in Article 8.1, a person who is a Portuguese national and resident and who is 18 years of age or older may enroll voluntarily for social security coverage if the person is not compulsorily covered under any other social security program based on employment or self-employment and is not eligible for the "optional continued insurance" described in connection with Article 8.2. This program pays old-age and disability pensions and a death grant. Under Article 8.1, a U.S. national who resides in Portugal will have the same rights to voluntary coverage and will have to meet the same eligibility requirements as a Portuguese national.

2. A person who has been subject to the laws of a Contracting State shall be entitled to register for any optional continued insurance provided under the laws of that Contracting State on the same basis as a national of that Contracting State, and, where necessary, periods of coverage completed under the laws of the other Contracting State shall be taken into account, provided that the person resides in the territory of the first Contracting State.

The second type of voluntary coverage under Portuguese law, which is addressed in Article 8.2, is called "optional continued insurance." Under this program, a person who has previously paid Portuguese social security contributions but is no longer covered may pay contributions voluntarily to maintain his or her Portuguese coverage. In addition to the benefits provided by the voluntary coverage program described in connection with Article 8.1, this program pays survivors pensions, several types of family allowances, and a "severe disability supplement" to old-age and disability beneficiaries who require the constant attention of a third person. Application for optional continued insurance must be filed within 6 months after compulsory coverage is terminated. Under article 8.2, a person who has been covered under the Portuguese social security program and currently resides in Portugal will be eligible for optional continued insurance on the same basis as a Portuguese national and any periods of U.S. coverage credited to the person will be taken into account if necessary to meet the prior coverage requirement for this program.

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ANNOTATIONS AND COMMENTS

PART III

Provisions on Benefits

Part III establishes the basic rules for determining entitlement to social security benefits when an individual has worked in both the United States and Portugal, and the rules for determining benefit amounts when entitlement is based on combined work credits. Article 9 contains rules specifically applicable to the U.S. system, and Article 10 deals with the Portuguese system.

Article 9

The following provisions shall apply to the United States:

1. Where a person has completed at least six quarters of coverage under United States laws, but does not have sufficient quarters of coverage to satisfy the requirements for entitlement to benefits under United States laws, the agency of the United States shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of Portugal and which do not coincide with periods of coverage already credited under United States laws.

Article 9 sets forth the rules for determining U.S. benefit eligibility and amounts in the case of persons who have periods of social security coverage in Portugal and at least six quarters of coverage in the United States, but who do not have enough U.S. coverage to qualify for benefits. In such cases, the Social Security Administration, in accordance with Article 9.1, will take into account any periods of coverage credited under Portuguese laws insofar as these periods do not coincide with quarters of coverage already credited under U.S. laws.

2. In determining eligibility for benefits under paragraph 1 of this Article, the agency of the United States shall credit one quarter of coverage for every three months of coverage certified by the agency of Portugal; however, no quarter of coverage shall be credited for any calendar quarter already credited as a quarter of coverage under United States laws. The total number of quarters of coverage to be credited for a year shall not exceed four.

Article 9.2 establishes the procedure to be followed in converting Portuguese periods of coverage into equivalent periods under the U.S. system. U.S. periods of coverage are measured in terms of calendar quarters, while Portuguese periods of coverage are measured in months. Since 1978, U.S. quarters of coverage have been based on the amount of a person's annual earnings (e.g., for 1988, one quarter of coverage is credited for every $470 in earnings). Under Article 9.2, SSA will credit one quarter of coverage in a calendar year for every 3 months of coverage certified for that year by the Portuguese agency. However, SSA will not credit months of coverage under Portuguese laws which fall within a calendar quarter which has already been credited as a U.S. quarter of coverage. In addition, SSA will not credit more than 4 quarters of coverage for any calendar year.

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3. Where entitlement to a benefit under United States laws is established according to the provisions of paragraph 1, the agency of the United States shall compute a pro rata Primary Insurance Amount in accordance with United States laws based on (a) the person's average earnings credited exclusively under United States laws and (b) the ratio of the duration of the person's periods of coverage completed under United States laws to the duration of a coverage lifetime as determined in accordance with United States laws. Benefits payable under United States laws shall be based on the pro rata Primary Insurance Amount.	Article 9.3 describes the method of computing U.S. benefit amounts when entitlement is established through totalization (i.e., combination) of U.S. and Portuguese coverage. As stipulated in Article 9.1, persons who qualify for U.S. benefits based solely on their U.S. coverage are not eligible for totalization benefits from the United States. Under the procedure outlined in Article 9.3, the amount of a worker's benefit depends on both the level of his earnings and the duration of his coverage under U.S. Social Security. This computation procedure is described in detail in regulations promulgated by the Department of Health and Human Services (20 CFR 404.1918 as revised July 24, 1984). The first step in the procedure is to compute a theoretical benefit amount as though the worker had spent a full coverage lifetime (i.e., full career) under U.S. Social Security at the same level of earnings as during his actual periods of U.S. covered work. The theoretical benefit is then prorated to reflect the proportion of a coverage lifetime completed under the U.S. program. A coverage lifetime is defined in the regulations as the number of the worker's benefit computation years, i.e., the years which must be used in determining a worker's average earnings under the regular U.S. national computation method.
4. Entitlement to a benefit from the United States which results from paragraph 1 shall terminate with the acquisition of sufficient periods of coverage under United States laws to establish entitlement to an equal or higher benefit without the need to invoke the provisions of paragraph 1.	Article 9.4 provides that when a worker who is entitled to a pro rata totalization benefit from the United States acquires additional U.S. coverage which enables him to qualify for an equal or higher benefit based solely on his U.S. coverage, the Social Security Administration will pay the regular national law benefit rather than the totalization benefit.

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Article 10

The following provisions shall apply to Portugal:

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The benefit provisions in Article 10 pertain to old-age, survivors, and permanent disability benefits under the Portuguese general and special social security systems. Under the general system, old-age benefits are payable to men at age 65 and to women at age 62. Workers in certain arduous occupations, such as miners, may qualify for benefits at younger ages. To qualify for old-age benefits, the worker must be credited with at least 120 months of coverage. The monthly amount of the old-age benefit equals 2.2 percent of the worker's average monthly covered earnings times the number of the worker's years of coverage. "Average monthly earnings" for this purpose is defined as the worker's average monthly covered earnings during the five calendar years of highest earnings out of the 10 calendar years immediately preceding retirement, death or disability onset. The old-age benefit amount is subject to a minimum of 30 percent and a maximum of 80 percent of average monthly earnings. Under the general system, moreover, if a person's monthly benefit computed under the above formula is less than 13,000 escudos (1988 figure), the benefit is increased to that figure.

A small supplement equal to 500 escudos per month is added to the amount determined under the provisions described above. In addition, if the worker has a dependent spouse, the benefit may be increased by 1,900 escudos a month (1987 figure) less any other income the spouse derives. A "severe disability supplement" may be paid if the retired worker requires the constant attention of a third person.

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Survivors benefits may be paid if the deceased worker is credited with at least 36 months of contributions. A surviving spouse may receive 60 percent of the old-age or disability benefit which was paid to the deceased pensioner (disregarding spouse and constant attendance supplements) or which would have been paid to the deceased worker based on accrued years of coverage if he had attained retirement age or become disabled at the time of death. In computing survivors benefit amounts, if the amount of the worker's benefit was less than 50 percent of average monthly earnings, the retirement benefit is assumed to have equaled this amount. A widower must have been at least age 65 at the wife's death or be permanently and totally disabled. A widow who is under 35 years of age, has no child in care, and is not disabled can receive benefits for only 5 years.

Surviving child's benefits are payable to children under the age of 18 (24 if a student; no age limit if disabled). Total benefits payable to all the worker's surviving children equal 20 percent of the deceased worker's benefit if there is one surviving child, 30 percent if two, and 40 percent if three or more. These amounts are doubled if the worker is not survived by a spouse. In the absence of immediate family, the worker's parents and certain other relatives may qualify for survivors benefits.

A survivor who requires the constant care of a third person can receive a supplement equal in 1983 to about 4,000 escudos. In addition to monthly survivors benefits, if the worker paid contributions for at least 3 months, the surviving spouse (or, in the absence of a spouse, another relative according to a specified order of priority) may receive a death grant equal to 6 times the worker's average monthly earnings during the 2 years of highest earnings out of the last 10 years.

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Disability benefits may be paid to a worker who is permanently unable to earn more than one-third the amount ordinarily earned in his or her usual occupation. The disability is considered permanent if, despite rehabilitation measures, the worker's earnings capacity is not expected to reach 50 percent within 3 years or the worker has received short-term cash sickness benefits for the maximum period of 1,095 days. To qualify for disability benefits, a person must have paid contributions for at least 60 months unless the disability is due to a work-related accident or disease. There is no recency-of-coverage requirement for disability benefits. The amount of the disability benefit is calculated in the same manner as the old-age benefit, and a disability beneficiary may qualify for the same spouse and severe disability supplements as an old-age beneficiary.

1. Where a person has completed at least one year of coverage under Portuguese law, but does not have sufficient periods of coverage to satisfy the requirements for entitlement to benefits under Portuguese law, the agency of Portugal shall take into account, for the purpose of establishing entitlement to benefits under this Article, periods of coverage which are credited under the laws of the United States and which do not coincide with periods of coverage already credited under Portuguese law.

Under Article 10.1, if a person has periods of coverage under the U.S. social security system and at least one year of coverage under the Portuguese system, but not enough Portuguese coverage to qualify for benefits, the Portuguese agency will take into account, for purposes of determining benefit eligibility, any periods of coverage credited under United States laws insofar as these periods do not coincide with months of coverage already credited under Portuguese laws.

2. Where Portuguese laws establish as a condition for receiving certain benefits that the periods of coverage be completed in a given profession or occupation which is subject to a special pension system, in determining eligibility for such benefits only the periods completed under United States laws in the same profession or occupation shall be totalized

In many cases, the benefits provided under the separate Portuguese social security systems for specific occupational categories are more favorable than those under the general system. Article 10.2 makes clear that a worker's U.S. periods of coverage will be taken into account to meet the eligibility requirements for these special system benefits, but only if they

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with periods of coverage under such special system. If the total of such periods of coverage does not result in entitlement under the special system, such periods shall be used to determine eligibility for benefits of the general system applicable under Portuguese laws to employed persons.

3. In determining eligibility for benefits under paragraph 1 of this Article, the agency of Portugal shall credit three months of coverage for every quarter of coverage certified by the agency of the United States.

4. Where a person satisfies the conditions required by Portuguese law for entitlement to benefits solely by virtue of the provisions of paragraph 1 of this Article, the agency of Portugal shall calculate the amount of the benefits to which the person is entitled on the basis of (a) the periods of coverage completed exclusively under Portuguese law and (b) the person's average earnings credited exclusively under Portuguese law.

5. If a person who resides in the territory of Portugal becomes entitled to benefits under paragraph 1 as well as benefits under United States laws, and the amount of the combined benefits is less than the benefit amount which would be payable based on the minimum basic benefit amount payable under Portuguese laws, the agency of Portugal shall pay, in addition to the pro rata amount calculated according to paragraph 4, a supplement equal to the difference between the amount of such combined benefits and the amount of benefits which would be payable to the person based on such minimum basic benefit amount.

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were completed in an occupation or profession similar to that covered by the special system. Article 10.2 also provides that if the U.S. periods of coverage, totalized with Portuguese periods of coverage under a special system, do not qualify the worker for benefits under the special system, the periods will be taken into account for meeting the eligibility requirements for benefits under the Portuguese general system.

The Portuguese agency will credit 3 months of coverage for each quarter of coverage certified by the Social Security Administration. (See Article 9.2 for the corresponding rule for converting Portuguese months of coverage into U.S. quarters of coverage for purposes of determining U.S. benefit eligibility.)

Article 10.4 sets forth the rules under which Portugal will compute benefit amounts when eligibility is established based on Article 10.1. Since Portuguese law already provides for computing benefit amounts in proportion to the worker's length of Portuguese coverage, Article 10.4 provides that Portugal will compute benefits based on totalized coverage credits in accordance with Portuguese law taking into account only periods of Portuguese coverage. In determining the worker's average monthly earnings for benefit computation purposes, only the earnings credited under Portuguese laws shall be taken into account.

As explained in the introductory comments on this Article, regardless of a worker's average monthly earnings or length of coverage, the minimum monthly old-age or disability benefit payable under Portuguese law in 1988 is 13,000 escudos. This minimum benefit provision of Portuguese law will generally not apply to persons who qualify for Portuguese benefits based solely on totalized periods of U.S. and Portuguese coverage. However, if the combined U.S. and Portuguese benefits payable to a resident of Portugal would be less that this minimum benefit amount, Portugal will pay an additional amount sufficient to raise the combined benefits to the amount of the minimum benefit.

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6. Entitlement to a benefit from Portugal which results from paragraph 1 shall terminate with the acquisition of sufficient periods of coverage under Portuguese law to establish entitlement to an equal or higher benefit without the need to invoke the provisions of paragraph 1.

Article 11

Periods of coverage of a Contracting State which have been completed under a Social Security pension system to which this Agreement does not apply, but which are taken into account by a system governed by the laws of that Contracting State referred to in Article 2 shall be considered as periods of coverage for the purpose of totalization by the agency of the other Contracting State.

ANNOTATIONS AND COMMENTS

Article 10.6 provides that when a worker who is entitled to a pro rata totalization benefit from Portugal acquires additional Portuguese coverage which enables him to qualify for an equal or higher benefit based solely on his Portuguese coverage, the Portuguese agency will pay the regular Portuguese national law benefit rather than the totalization benefit.

Portuguese civil servants are covered under a special social security system to which this Agreement does not apply. If a person who has completed periods of coverage under the Portuguese civil servants' system does not qualify for benefits under that system, however, the periods of coverage may be transferred to the general social security system. Article 10.6 makes clear that in determining eligibility for U.S. totalization benefits, the U.S. Social Security Administration will take account of such periods that have been transferred to the Portuguese general system. In similar fashion, the Portuguese agencies will take into account periods of service that were originally credited under the U.S. Railroad Retirement System (to which the Agreement does not apply) but which were subsequently transferred to a worker's Social Security earnings record.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

PART IV

Miscellaneous Provisions

Article 12

The Competent Authorities of the two Contracting States shall:

(a) Make all necessary administrative arrangements for the application of this Agreement;

(b) Communicate to each other information concerning the measures taken for the application of this Agreement; and

(c) Communicate to each other, as soon as possible, information concerning all changes in their respective laws which may affect the application of this Agreement.

Article 12 lists several duties of the Competent Authorities under the Agreement. Clause (a) authorizes the Competent Authorities to make any administrative arrangements that may be necessary to implement and administer the Agreement. Clause (b) requires that they notify each other of measures they have taken unilaterally to implement the Agreement. Clause (c) obligates the Competent Authorities to notify each other of any changes in their respective social security laws that may affect the application of the Agreement.

Article 13

1. The Competent Authorities and the agencies of the Contracting States, within the scope of their respective authority, shall assist each other in implementing this Agreement.

Article 13.1 provides authority for the two countries to assist each other in administering this Agreement. Such assistance would include, for example, the taking of applications and the gathering and exchanging of information relevant to claims filed under the Agreement.

2. For the purpose of facilitating the implementation of this Agreement, liaison agencies shall be designated in an administrative arrangement.

Article 13.2 requires the two countries to designate liaison agencies that will have primary responsibility for coordinating implementation and administration of the coverage and benefit provisions of the Agreement. Article 2.1 of the Administrative Arrangement that has been concluded for implementation of this Agreement designates the Social Security Administration as the liaison agency for the United States and the Department of International Relations and Social Security Conventions in the Portuguese Ministry of Labor and Social Security as the liaison agency for Portugal.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 14

Any application, appeal or other document which according to the laws of a Contracting State must be submitted within a specified period to an agency of that Contracting State, but which is instead submitted within the same period to the agency of the other Contracting State shall be considered to have been submitted on time. In such case, the agency with which the application, appeal or document has been filed shall indicate the date of receipt on the document and transmit it without delay to the appropriate agency of the other Contracting State either directly or by way of the liaison agency.

Article 14 provides that an application, appeal or other document that must be filed within a prescribed time limit with an agency of one country shall be considered to have been filed on time if filed within such limit with an agency of the other country. The agency with which the application, appeal or other document is filed shall transmit it without delay to the appropriate agency of the other country, indicating the date the document was received.

Article 15

1. Where the laws of a Contracting State provide that any document which is submitted to a Competent Authority or an agency of that Contracting State shall be exempted, wholly or partly, from fees or charges, including consular and administrative fees, the exemption shall also apply to corresponding documents which are submitted to a Competent Authority or an agency of the other Contracting State in the application of this Agreement.

Article 15.1 provides that if the laws of one country exempt documents submitted in connection with a social security claim from fees or charges, that exemption shall also apply if such documents are sent to the other country by or on behalf of a claimant or beneficiary.

2. Documents and certificates which are presented for purposes of this Agreement shall be exempt from requirements for authentication by diplomatic or consular authorities.

Some countries require that the authenticity of documents that are submitted to their social security authorities by or on behalf of persons in another country be certified by a diplomatic, consular or other official representative in the other country. (The United States has no such requirements.) Under Article 15.2, neither the United States nor Portugal will require such authentication of documents submitted under the Agreement.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 16

1. A written application for benefits filed with an agency of one Contracting State shall protect the rights of the claimants under the laws of the other Contracting State if the applicant requests that it be considered an application under the laws of the other Contracting State.

Under Article 16.1, a written application submitted to the agency of one country will protect a claimant's right to benefits under the laws of the other country as if the application had been presented in the other country, provided the applicant expresses an intent to file for benefits in the other country when the application is filed. Because an applicant may not be fully aware of his or her benefit rights in the other country, Article 16.2 also provides that, in the absence of an expression of intent, the application will protect the claimants' rights in the other country if, at the time of filing, the applicant indicates that the person on whose record benefits are claimed has been covered under social security in the other country.

2. If an applicant has filed a written application for benefits with the agency of one Contracting State and has not specifically restricted the application to benefits under the laws of that State, the application shall also protect the rights of the claimants under the laws of the other Contracting State if the applicant provides information at the time of filing indicating that the person on whose record benefits are claimed has completed periods of coverage under the laws of the other Contracting State.

3. The provisions of this Agreement shall apply only to an application for benefits which is filed on or after the date this Agreement enters into force.

Article 16.3 requires that a person claiming benefits under the Agreement file an application either on or after the date the Agreement enters into force.

Article 17

The Competent Authorities and agencies of the Contracting States may correspond directly with each other and with any person wherever the person may reside whenever it is necessary for the administration of this Agreement. The correspondence may be in the English or Portuguese language.

Article 17 authorizes direct correspondence between the Competent Authorities and agencies of the two countries and between these bodies and any person with whom they may need to communicate. The correspondence may be in either English or Portuguese.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 18

1. Payments under this Agreement may be made in the currency of the Contracting State making the payments.

Benefits to be paid by a country under this Agreement may be paid in the currency of that country. This corresponds to the current practice of both countries regarding benefit payments.

2. In case provisions designed to restrict the exchange or exportation of currencies are introduced by either Contracting State, the Governments of both Contracting States shall immediately adopt the measures necessary to insure the transfer of sums owed by either Contracting State under this Agreement.

Should either country impose restrictions on the exchange or exportation of its currency, steps shall be taken to assure the payment of amounts due under the Agreement.

Article 19

This Agreement may be amended in the future by supplementary agreements, which from their entry into force shall be considered an integral part of this Agreement. Such supplementary agreements may be given retroactive effect if they so specify.

Article 19 provides that the Agreement may be amended by future supplementary agreements and that such agreements may have retroactive effect. After a supplementary agreement becomes effective, it will thereafter be considered an integral part of the Agreement.

Article 20

1. Disagreements between the two Contracting States regarding the interpretation or application of this Agreement shall, as far as possible, be settled by the Competent Authorities.

Article 20.1 obligates the Competent Authorities to attempt to resolve any dispute between them regarding the Agreement through direct consultation or negotiation.

2. If such a disagreement cannot be resolved within a period of six months, either Contracting State may submit the matter to binding arbitration by an arbitral body whose composition and procedure shall be agreed upon by the Contracting States.

Article 20.2 requires both States to establish an arbitral procedure in any case where a disagreement has not been resolved within six months by the Competent Authorities and either State requests that the matter be submitted to arbitration.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

PART V

Transitional and Final Provisions

Article 21

1. Upon entry into force of this Agreement, the Notes exchanged between the Ambassador of the United States of America and the Minister of Foreign Affairs of Portugal on May 1, 1968, shall cease to have effect; provided, however, that no person shall suffer any loss of rights to benefits outside the territory of Portugal which he had under those Notes or would have had if those Notes had remained in effect.

The diplomatic notes exchanged between the United States and Portugal on May 1, 1968, provide that U.S. nationals who are outside Portugal may apply for and receive Portuguese social security benefits to which they are entitled without regard to the duration of their absence from Portugal and without reduction due to such absence. In recognition of this fact, the notes confirm that Portugal has a social security system which meets the conditions specified in section 202(t)(2) of the U.S. Social Security Act to permit U.S. social security benefits to be paid outside the United States to Portuguese citizens without restriction due to their absence from the United States. Since Article 3.2 of the present Agreement guarantees that each country will pay its benefits to residents of the other country, Article 21.1 terminates the 1968 notes effective with the Agreement's entry into force. Article 21.1 also includes a proviso, however, to ensure that the termination of the 1968 notes does not affect the benefit portability rights of U.S. and Portuguese nationals in third countries. Under the proviso, U.S. nationals outside Portugal will continue to receive Portuguese benefits without restriction whether they are present in the United States or a third country. In accordance with section 202(t)(2) of the Social Security Act, therefore, U.S. benefits will continue to be paid to Portuguese nationals outside the United States whether they are in Portugal or a third country.

PRINCIPAL AGREEMENT	ANNOTATIONS AND COMMENTS
2. In the application of this Agreement, consideration shall be given to periods of coverage under the laws of either Contracting State which occurred prior to the entry into force of this Agreement, in order to determine the right to benefits under this Agreement; except that neither State shall take into account periods which occurred prior to the earliest date for which periods may be credited as periods of coverage under its laws.	In determining benefit eligibility and amounts under the Agreement, periods of coverage occurring before the Agreement enters into force will be taken into account. However, the Social Security Administration will not credit Portuguese periods of coverage completed prior to 1937, the earliest year for which coverage may be credited under U.S. law.
3. This Agreement shall also apply to events relevant to rights under the laws of either Contracting State which occurred prior to its entry into force.	Under Article 21.3, events material to the determination of benefit rights, such as marriage, death, disability, or attainment of a certain age, that occurred prior to the effective date of the Agreement will be considered in applying the Agreement.
4. This Agreement shall not establish any claim to payment of a benefit for any period before its entry into force or a lump-sum death benefit if the person died before its entry into force.	Benefits payable as a result of the Agreement will be paid only for periods beginning with the effective date of the Agreement. Any lump-sum death payments provided by section 202(i) of the U.S. Social Security Act will be payable under the Agreement only if the death occurs on or after the Agreement's effective date.
5. Determinations made before the entry into force of this Agreement shall not affect rights arising under it.	A decision to award or deny a claim which was rendered prior to the effective date of the Agreement will not prevent a person from filing a new application for additional benefits that may be payable as a result of the Agreement.
6. The application of this Agreement shall not result in any reduction in the amount of benefits to which entitlement was established prior to its entry into force.	Although it is unlikely that the provisions of this Agreement would cause any reduction in benefits, Article 21.6 guarantees that benefits which are already being paid at the time the Agreement becomes effective will not be reduced as a result of its entry into force.

PRINCIPAL AGREEMENT

7. In applying Article 3, paragraph 1, in the case of persons who were sent to the territory of a Contracting State prior to the date of entry into force of this Agreement, the period of employment referred to in that paragraph shall be considered to begin on that date.

ANNOTATIONS AND COMMENTS

Under Article 3.1, an employee who is transferred by his employer in one country to work in the other country for 5 years or less will continue to be covered under the social security system of the first country and will be exempt from coverage in the host country. Article 21.7 makes clear that Article 3.1 will also apply to persons who began working in the other country prior to the effective date of the Agreement provided they intend to return to their country of origin within 5 years of the Agreement's effective date.

Article 22

1. This Agreement shall remain in force and effect until the expiration of one calendar year following the year in which written notice of its termination is given by one of the Contracting States to the other Contracting State.

Article 22.1 provides for the Agreement to remain in effect until the expiration of 1 calendar year after the year notice of termination is given by one of the countries.

2. If this Agreement is terminated, rights regarding entitlement to or payment of benefits acquired under it shall be retained; the Contracting States shall make arrangements dealing with rights in the process of being acquired.

Article 22.2 provides that, in the event the Agreement is terminated, a person will retain benefit rights acquired before termination; special arrangements would determine the extent to which each country would recognize benefit rights in the process of being acquired at the time of termination--for example, periods of coverage which had not yet resulted in fully insured status.

PRINCIPAL AGREEMENT

ANNOTATIONS AND COMMENTS

Article 23

Both Contracting States shall notify each other in writing of the completion of their respective statutory and constitutional procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the third month following the date of the last notification.

Each country will follow its own constitutional procedures for approval of the Agreement. In the United States, the Agreement must be presented to the Congress for a review period of 60 days during which at least one House of Congress has been in session as required by section 233(e) of the U.S. Social Security Act. In Portugal, the Agreement must be approved by the Council of Ministers, i.e., the Portuguese Cabinet. The Agreement will enter into force on the first day of the third calendar month after each Government has received formal notification of approval from the other Government.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present Agreement.

DONE at Lisbon on March 30, 1988, in duplicate in the English and Portuguese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:	FOR THE GOVERNMENT OF THE PORTUGUESE REPUBLIC:
Edward M. Rowell	Manuel Filipe Correia de Jesus

The agreement was signed in Lisbon on March 30, 1988 by the U.S. Ambassador to Portugal, Edward M. Rowell, and the Secretary of State for the Portuguese Communities in the Portuguese Ministry of Foreign Affairs, Dr. Manuel Filipe Correia de Jesus.

ADMINISTRATIVE ARRANGEMENT FOR THE IMPLEMENTATION OF THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE PORTUGUESE REPUBLIC ON SOCIAL SECURITY

The Government of the United States of America and the Government of the Portuguese Republic,

In conformity with Article 12, paragraph (a), of the Agreement between the United States of America and the Portuguese Republic on Social Security of this date, hereinafter referred to as the "Agreement," have agreed as follows:

ADMINISTRATIVE ARRANGEMENT

Chapter I

General Provisions

Article 1

The terms used in this Administrative Arrangement shall have the same meaning as in the Agreement.

Article 2

1. The liaison agencies referred to in Article 13, paragraph 2, of the Agreement shall be:

   (a) for the United States, the Social Security Administration,

   (b) for Portugal, the Department of International Relations and Social Security Conventions (Departamento de Relacoes Internacionais e Convencoes de Seguranca Social).

2. The liaison agencies designated in paragraph 1 shall agree upon the joint procedures and forms necessary for the implementation of the Agreement and this Administrative Arrangement.

ANNOTATIONS AND COMMENTS

Article 1 provides that the terms used in both the Agreement and this Administrative Arrangement, whether defined in the Agreement or not, will have the same meaning as they have in the Agreement.

Article 2 designates one agency in each country that will have primary responsibility for coordinating implementation and administration of the coverage and benefit provisions of the Agreement. The Social Security Administration is the designated liaison agency for the United States, and the Department of International Relations and Social Security Conventions in the Ministry of Labor and Social Security is the counterpart liaison agency for Portugal.

Article 2.2 authorizes and requires the liaison agencies of the United States and Portugal to agree upon those procedures and forms which must be prepared jointly for the implementation of the Agreement and Administrative Arrangement.

ADMINISTRATIVE ARRANGEMENT

Chapter II

Provisions on Coverage

Article 3

1. Where the laws of a Contracting State are applicable in accordance with Part II of the Agreement, the agency of that Contracting State, upon request of the employer or self-employed person, shall issue a certificate stating that the employee or self-employed person is subject to those laws. This certificate shall be proof that the named worker is exempt from the laws on compulsory coverage of the other Contracting State.

2. The certificate referred to in paragraph 1 shall be issued

(a) In the United States:

by the Social Security Administration;

ANNOTATIONS AND COMMENTS

Article 3 establishes procedures pursuant to Part II of the Agreement for the elimination of dual social security coverage and taxation of the same work under the systems of both the United States and Portugal.

Under Article 3.1, the agency of the country whose social security coverage laws will continue to apply to a person in accordance with the various rules in Part II of the Agreement will issue a certificate to that effect when requested to do so by a person's employer or a self-employed person. When presented to the appropriate agency of the other country, the certificate will establish the basis for the exemption of the person from the coverage laws of that country. Retroactive recovery of U.S. contributions paid with respect to services for which a coverage exemption has been in effect would be subject to the time limitations for refunds of taxes in the Internal Revenue Code.

Article 3.2 designates the agencies responsible for issuing coverage certificates.

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

(b) In Portugal:

on the European continent by the Regional Social Security Center (Centro Regional de Seguranca Social) where the worker concerned is registered,

in the Autonomous Region of Madeira by the Regional Social Security Directorate (Direccao Regional de Seguranca Social), Funchal,

in the Autonomous Region of the Azores by the Regional Social Security Directorate (Direccao Regional de Seguranca Social), Angra do Heroismo.

3. The agency of a Contracting State which issues a certificate referred to in paragraph 1 shall furnish a copy of the certificate to the liaison agency of the other Contracting State as needed by the latter agency.

Article 3.3 provides that an agency issuing a coverage certificate will furnish the liaison agency in the other country a copy of the certificate when needed.

Chapter III

Provisions on Benefits

Article 4

1. The agency of the Contracting State with which an application for benefits is first filed in accordance with Article 16 of the Agreement shall inform the liaison agency of the other Contracting State of this fact without delay and provide such evidence and other information as may be required to complete action on the claim.

Articles 4.1 and 4.2 outline the procedures to be followed by both countries for the exchange of pertinent information needed to process claims filed under the Agreement.

ADMINISTRATIVE ARRANGEMENT

2. The liaison agency of a Contracting State which receives an application that was first filed with an agency of the other Contracting State shall without delay provide the liaison agency of that Contracting State with such evidence and other available information as may be required for it to complete action on the claim.

3. The agency of the Contracting State with which an application for benefits has been filed shall verify the information pertaining to the applicant and his family members. The types of information to be verified shall be agreed upon by the liaison agencies.

Chapter IV

Miscellaneous Provisions

Article 5

In accordance with measures to be agreed upon by the Contracting States pursuant to Article 2 of this Administrative Arrangement, the liaison agency of one Contracting State shall, upon request of an agency of the other Contracting State, furnish available information relating to the claim of any specified individual for the purpose of administering the Agreement.

ANNOTATIONS AND COMMENTS

Article 4.3 deals with the verification of claims information. Both U.S. and Portuguese laws require that certain information about individuals claiming benefits be verified (e.g., age and family relationship to the worker) before the claim can be approved. Article 4.3 provides that when a claim for benefits under the Agreement is filed in one country, the agency of that country will verify the relevant information and inform the agency of the other country of its findings. The liaison agencies will agree upon the specific types of information which must be verified. The purpose of this provision is to expedite the claims process by avoiding the duplication of effort which would result if the agencies of both countries were required to verify the same information. Although an agency may accept the findings of the other agency concerning the accuracy of information, it may at its discretion request documentary evidence to support those findings.

Article 5 provides that the agency of one country may, upon request, furnish claims-related information to the agency of the other country in accordance with agreed upon procedures. Such procedures will be agreed upon by the liaison agencies and will be consistent with the governing statutes of both countries.

ADMINISTRATIVE ARRANGEMENT

ANNOTATIONS AND COMMENTS

Article 6

Copies of documents which are certified as true and exact copies by the agency of one Contracting State shall be accepted as true and exact copies by the agency of the other Contracting State, without further certification. When applying its laws, the agency of each Contracting State shall be the final judge of the probative value of the evidence submitted to it from whatever source.

If the agency of one country certifies that a copy of a document it furnishes to the agency of the other country is a true and exact copy of an original document, the other country will accept this certification. However, the agency of each country will be the final judge of the probative value of any documents submitted to it.

Article 7

The liaison agencies of the two Contracting States shall exchange statistics on the number of certificates issued under Article 3 of this Administrative Arrangement and on the payments made to beneficiaries under the Agreement. These statistics shall be furnished annually in a form to be agreed upon.

Article 7 provides for an exchange of statistics concerning the number of coverage certificates issued pursuant to Article 3.1 of this Administrative Arrangement, and the payments made to beneficiaries under the Agreement.

Article 8

1. Where administrative assistance is requested under Article 13 of the Agreement, expenses other than regular personnel and operating costs of the agencies providing the assistance shall be reimbursed.

In accordance with Article 13 of the Agreement, the agencies of the two countries will provide each other with such administrative assistance as may be necessary to implement the provisions of the Agreement. Article 8 of this Administrative Arrangement indicates the types of assistance which will be provided without cost and the types which will be provided on a reimbursable basis.

Under Article 8.1, expenses incurred in responding to requests for administrative assistance that require an agency to go outside its own organization to provide the assistance, such as hiring interpreters or conducting special field investigations, will be paid by the agency that makes the request. Expenses for regular personnel and operating costs will not be reimbursed.

REPORT TO CONGRESS
ON THE FINANCIAL EFFECT
OF THE U.S.-PORTUGUESE SOCIAL SECURITY AGREEMENT

The following tables present estimates on the effects of the proposed U.S.-Portuguese social security agreement on the income and expenditures of both countries' social security programs and the number of people who will be affected by the agreement. The estimates are based on the assumption that the agreement will become effective on October 1, 1988.

Table 1 shows the estimated additional costs that would accrue to each country's system as a result of the agreement. These costs would occur because (1) each country would pay additional benefits to certain people who have worked in both the United States and Portugal but who could not qualify for benefits from one or both without the agreement, and (2) each country would lose social security tax income from workers who were previously required to contribute to both systems for the same work but who would contribute only to one system under the agreement.

Table 2 shows the number of people who would become eligible for a partial OASDI benefit from the United States or Portugal under the agreement. Also shown in Table 2 is the number of employees in each country who, along with their employers, would no longer be subject to dual social security coverage and taxation.

Table 1.--Estimated additional costs to the U.S. and Portuguese Social Security systems under a proposed totalization agreement between the two countries

(In millions)

	Fiscal year				
	1989	1990	1991	1992	1993
Additional costs to the U.S. Social Security system:					
Increase in OASDI benefit payments	(1/)	(1/)	(1/)	$1	$1
Reduction in OASDHI tax contributions	(1/)	(1/)	$1	1	1
Total	(1/)	(1/)	1	2	2
Additional costs to the Portuguese Social Security system:					
Increase in benefit payments	(1/)	(1/)	(1/)	1	1
Reduction in tax contributions	1	$2	2	3	3
Total	1	2	2	4	4

1/ Less than $500,000.

Table 2.--Estimated number of persons who would be affected by a proposed totalization agreement between the United States and Portugal

	Fiscal year				
	1989	1990	1991	1992	1993
Number of persons receiving a totalized OASDI benefit based in part on employment in Portugal under the proposed agreement (in current-pay status at mid-year)	(1/)	(1/)	(1/)	100	100
Number of persons receiving a totalized Portuguese benefit based in part on employment in the United States under the proposed agreement (in current-pay status at mid-year)	(1/)	(1/)	(1/)	100	100
Number of U.S. employees in Portugal who, along with their employers, would no longer make tax contributions during the year to the Portuguese social security system	70	100	120	120	120
Number of Portuguese employees in the United States who, along with their employers, would no longer make tax contributions to the OASDHI Trust Funds	50	75	90	90	90

1/ Fewer than 50.

Notes: 1. The above estimates are based on the alternative II-B assumptions of the 1987 Trustees Report.
2. The estimates assume an effective date for the agreement of October, 1988. For purposes of determining the effect in dollars of the agreement on the Portuguese system, the currency exchange rate of approximately $0.007 per escudo was used.

Social Security Administration
Office of the Actuary
February 26, 1988

ADMINISTRATIVE ARRANGEMENT

2. Upon request, the agency of either Contracting State shall furnish without cost to the agency of the other Contracting State any medical information and documentation in its possession relevant to the disability of the claimant or beneficiary.

3. Where the agency of a Contracting State requires that a person in the territory of the other Contracting State who is receiving or applying for benefits under the Agreement submit to a medical examination, such examination, if requested by that agency, shall be arranged by the agency of the other Contracting State in accordance with the rules of the agency making the arrangements and at the expense of the agency which requests the examination.

4. The liaison agency of one Contracting State shall reimburse amounts owed under paragraph 1 or 3 of this Article upon presentation of a detailed statement of expenses by the liaison agency of the other Contracting State.

Article 9

Unless otherwise required by the national statutes of a Contracting State, information about an individual which is transmitted in accordance with the Agreement to that Contracting State by the other Contracting State shall be used exclusively for purposes of implementing the Agreement. Such information received by a Contracting State shall be governed by the national statutes of that Contracting State for the protection of privacy and confidentiality of personal data.

ANNOTATIONS AND COMMENTS

When one agency requests medical information from the other agency, the latter will provide the requesting agency any pertinent medical information it has in its possession free of charge.

Article 8.3 provides that where a medical examination is necessary to establish eligibility for or continuing entitlement to benefits under one country's system, and the claimant or beneficiary is located in the other country, the agency of the other country will, upon request, arrange for the examination at the expense of the agency requesting the examination.

In order to receive reimbursement for the cost of administrative assistance, the liaison agency which provides the assistance must furnish the requesting agency with a detailed statement of expenses.

Both the United States and Portugal have statutes and regulations that provide strict safeguards for maintaining the confidentiality of information pertaining to individuals which is in the possession of their respective Governments. In the United States, these statutes include the Freedom of Information Act, the Privacy Act, the Tax Reform Act of 1976, the Government in the Sunshine Act, and pertinent provisions of the Social Security Act and other related statutes. Article 9 provides that personal information pertaining to an individual which one country furnishes to the other under the Agreement will be protected in accordance with the applicable provisions of the other country's privacy and confidentiality laws.

ADMINISTRATIVE ARRANGEMENT

Article 10

This Administrative Arrangement shall enter into force on the date of entry into force of the Agreement and shall have the same period of validity.

DONE at Lisbon on March 30, 1988, in duplicate in the English and Portuguese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:	FOR THE GOVERNMENT OF THE PORTUGUESE REPUBLIC:
Edward M. Rowell	Manucl Filipe Correia de Jesus

ANNOTATIONS AND COMMENTS

The Administrative Arrangement will enter into force on the same date as the Agreement and will remain in effect for the same period as the Agreement.

The Administrative Arrangement was signed in Lisbon on March 30, 1988, by the U.S. Ambassador to Portugal, Edward M. Rowell, and the Secretary of State for the Portuguese Communities in the Portuguese Ministry of Foreign Affairs, Dr. Manuel Filipe Correia de Jesus.